

**FILED**  
2008 AUG -4 PM 2: 20  
CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY AM DEPUTY

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

GREGORY LEE GRAY,  
CDCR #J-05459,

Plaintiff,

vs.

JOHN DOE, Director of California Dep't of  
Corrections and Rehabilitation, et al.,

Defendants.

Civil No. 08-1178 J (NLS)

**ORDER:**

- (1) **DISMISSING CIVIL ACTION  
AS DUPLICATIVE PURSUANT TO  
28 U.S.C. § 1915A(b)(1); and**
- (2) **DENYING MOTION TO PROCEED  
IN FORMA PAUPERIS AS MOOT  
[Doc. No. 2]**

Plaintiff, a state inmate currently incarcerated at High Desert State Prison located in Susanville, California and proceeding pro se, has filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. Plaintiff has not prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a); instead, he has filed a Motion to Proceed *In Forma Pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a) [doc. no. 2].

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1 **I. Sua Sponte Screening Pursuant to 28 U.S.C. § 1915A(b)**

2 The Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915A, obligates the Court to  
 3 review complaints filed by anyone "incarcerated or detained in any facility who is accused of,  
 4 sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions  
 5 of parole, probation, pretrial release, or diversionary program," "as soon as practicable after  
 6 docketing" and regardless of whether the prisoner prepays filing fees or moves to proceed IFP.  
 7 See 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss prisoner complaints, or any  
 8 portions thereof, which are frivolous, malicious, or fail to state a claim upon which relief may  
 9 be granted. 28 U.S.C. § 1915A(b); *Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir. 2000).

10 Plaintiff's instant Complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.  
 11 § 1915A(b)(1) because it appears to be duplicative of a case Plaintiff is already litigating.  
 12 Plaintiff's Complaint contains identical claims and defendants that are found in *Gray v. Doe, et*  
 13 *al.*, S.D. Cal. Civil Case No. 08-1147 JM (LSP). A court "may take notice of proceedings in  
 14 other courts, both within and without the federal judicial system, if those proceedings have a  
 15 direct relation to matters at issue." *United States ex rel. Robinson Rancheria Citizens Council*  
 16 *v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992).

17 A prisoner's complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it  
 18 "merely repeats pending or previously litigated claims." *Cato v. United States*, 70 F.3d 1103,  
 19 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (citations and internal  
 20 quotations omitted). Because Plaintiff is already litigating the same claims presented in the  
 21 instant action in *Gray v. Doe, et al.*, S.D. Cal. Civil Case No. 08-1147 JM (LSP), the Court  
 22 hereby **DISMISSES** Civil Case No. 08-1178 J (NLS) pursuant to 28 U.S.C. § 1915A(b)(1). See  
 23 *Cato*, 70 F.3d at 1105 n.2; *Resnick*, 213 F.3d at 446 n.1.

24 **II. Conclusion and Order**

25 Good cause appearing, **IT IS HEREBY ORDERED** that:

26 Plaintiff's Complaint in Civil Case No. 08-1178 J (NLS) is **DISMISSED** as frivolous  
 27 pursuant to 28 U.S.C. § 1915A(b)(1).

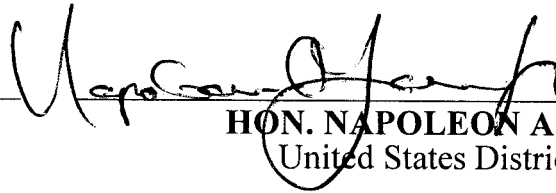
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1 Plaintiff's Motion to Proceed IFP [Doc. No. 2] is **DENIED** as moot.

2 The Clerk shall close the file.

3 **IT IS SO ORDERED.**

4 **DATED:** 8-1-08



HON. NAPOLEON A. JONES, JR.  
United States District Judge